

1 Remarks

2 Amendments to the claims

3 Claims 17 and 24-27 have been amended as indicated above. New claims
4 29-38 have been added. Support for this amendment is found at least at page 4, line
5 8 to page 13, line 2 of the specification as originally filed. No new matter has been
6 added through the amending of the instant claims.

7
8 Claim Objections

9 The Examiner has objected to claims 26 and 27 on the grounds of
10 informalities. In particular, the Examiner asserts that the term "apparatus" should
11 read as "toner cartridge", and the word "or" should read as "of" in both of claims 26
12 and 27, respectively (page 2 of the Office Action). Claims 26 and 27 have been
13 amended as indicated above in order to implement these suggested corrections. No
14 new matter has been added to claims 26 and 27. The Examiner's objection to
15 claims 26 and 27, as amended, is now believed moot.

16
17 Rejection of Claims under 35 U.S.C. § 102

18 Claims 17 and 25 have been rejected under 35 U.S.C. § 102(b) as being
19 anticipated by U.S. Patent No. 4,913,087 ("Saita et al.").

20 Claim 24 has been rejected under 35 U.S.C. § 102(e) as being anticipated by
21 U.S. Patent No. 6,546,216 ("Mizoguchi et al.").

22 The Applicants respectfully disagree that claims 17, 24 and 25, as
23 respectively amended, are anticipated as alleged by the Examiner.

24 As a starting point, the PTO and the Federal Circuit provide that §102
25 anticipation requires each and every element of the claimed invention to be
disclosed in a single prior art reference. (*In re Spada*, 911 F.2d 705, 15 USPQ2d
1655 (Fed. Cir. 1990)). The corollary of this rule is that the absence from a cited

1 §102 reference of any claimed element negates the anticipation. (*Kloster*
2 *Speedsteel AB, et al v. Crucible, Inc., et al*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir.
3 1986)). Furthermore, "[a]nticipation requires that all of the elements and limitations
4 of the claims are found within a single prior art reference." (*Scripps Clinic and*
5 *Research Found. v Genetech. Inc.*, 927 F.2d 1565, 1576, 18 U.S.P.Q.2d 1001, 1010
6 (Fed. Cir. 1991 (emphasis added))). Moreover, the PTO and the Federal Circuit
7 provide that §102 anticipation requires that there must be no difference between the
8 claimed invention and the reference disclosure. (*Scripps Clinic and Research Found.*
9 *v. Genetech, Inc.*, id. (emphasis added)).

10 Accordingly, if the Applicants can demonstrate that any one element or
11 limitation in claims 17, 24 and 25, as amended, is not disclosed by Saita et al. or
12 Mizoguchi et al., respectively, then the respective claim(s) must be allowed.

13 In the following arguments, the Applicants will focus in particular on
14 independent claims 17, 24 and 25, as amended, as the Applicants believe those
15 claims to be allowable. It is axiomatic that any dependent claim which depends from
16 an allowable base claim is also allowable, and therefore the Applicants do not
17 believe it is necessary to present arguments in favor of each and every dependent
18 claim.

19
20 Claim 17

21 The Applicants contend that claim 17, as amended, is not anticipated by Saita
22 et al. With respect of claim 17, as amended, that claim includes the following
23 features and limitations:

24
25 An imaging apparatus, comprising:
a toner reservoir housing which defines a toner reservoir; and

1 a rotatable endless belt disposed within the toner reservoir,
2 wherein the endless belt is configured to be permeable to a toner.

3 (Emphasis added.)
4

5 Saita et al. fail to provide a rotatable endless belt disposed within the toner
6 reservoir, wherein the endless belt is configured to be permeable to a toner, as
7 recited in combination with the other features of claim 17, as amended.

8 Rather, Saita et al. is directed to a magnetic belt 49 that is driven such that
9 deteriorated (i.e., spent, or used) developing agent can be transported away from a
10 developer roller 38 and into a cartridge 41 (Abstract; Col. 10, line 47 to Col. 11, line
11 4; Figs. 1 and 8 of Saita et al.). That is, Saita et al. is directed to a transporting belt
12 that is magnetized for the specific purpose of causing developing agent to adhere to
13 an outer (i.e., single) surface of the belt during transport. In any case, Saita et al. do
14 not provide, teach or suggest any kind of rotatable endless belt that is configured to
15 be permeable to a toner, as recited, in slightly varying language, in combination with
16 the other features of claim 17, as amended. As a result, Saita et al. fail to provide at
17 least one element or limitation as recited by instant claim 17, as amended.
18 Therefore, the 102 rejection of claim 17, as amended, is unsupportable and should
19 be withdrawn.

20 Thus, claim 17, as amended, is allowable.
21

22 Claim 24

23 The Applicants contend that claim 24, as amended, is not anticipated by
24 Mizoguchi et al. With respect of claim 24, as amended, that claim includes the
25 following features and limitations:

1 A toner cartridge comprising:
2 means for housing a supply of toner, ...; and
3 means for engaging at least a portion of the toner at the
4 periphery of the non-cylindrical mixing region for agitating the toner,
5 the means for engaging at least a portion of the toner configured to be
6 permeable to the toner.

7 (Emphasis added.)
8

9 Mizoguchi et al. fail to provide means for engaging at least a portion of the
10 toner at the periphery of the non-cylindrical mixing region for agitating the toner, the
11 means for engaging at least a portion of the toner configured to be permeable to the
12 toner, as recited in combination with the other features of claim 24, as amended.

13 In contrast, Mizoguchi et al. is directed to a rotational agitating means 17 (i.e.,
14 moving in a substantially circular or wheel-like motion) that includes a conveying
15 sheet 21 that is configured to move or sweep through a toner supply container 2
16 (Col. 5, lines 15-24; Figs. 1-2 of Mizoguchi et al.). Nowhere do Mizoguchi et al.
17 provide, teach or suggest means for engaging at least a portion of the toner, wherein
18 such means is configured to be permeable to the toner, as recited, in slightly varying
19 language, in combination with the other features of claim 24, as amended. Thus,
20 Mizoguchi et al. fail to provide at least one element or limitation of claim 24, as
21 amended, and the respective 102 rejection thereof is unsupportable.

22 Therefore, claim 24, as amended, is allowable.
23

24 Claim 25

25 The Applicants contend that claim 25, as amended, is not anticipated by
Mizoguchi et al. With respect of claim 25, as amended, that claim includes the
following features and limitations:

1 A method of agitating toner, comprising:
2 placing toner in a reservoir;
3 rotatably supporting an endless belt within the reservoir by way
4 of at least three rollers; and
5 engaging at least a portion of the toner in the reservoir with the
6 endless belt to thereby agitate the toner within the reservoir.
7 (Emphasis added.)
8

9 Saita et al. fail to provide rotatably supporting an endless belt within the
10 reservoir by way of at least three rollers, as recited in combination with the other
11 features of claim 25, as amended.

12 Rather, Saita et al. are directed to providing a transporting unit 39 that is
13 configured to follow a substantially oval path of travel (Figs. 1 and 8 of Saita et al.).
14 Saita et al. are not concerned with proximately following the various contours of a
15 reservoir during the agitation of a toner by an endless belt (see page 5, line 29 to
16 page 8, line 2; and Figs. 5 and 12 of the instant application). Saita et al. fail to
17 provide at least one element or limitation of claim 25, as amended. As a result, the
18 102 rejection of claim 25, as amended, is unsupportable and should be withdrawn.

19 Therefore, claim 25, as amended, is allowable.
20

21 Claim Rejections under Non-Statutory Double Patenting

22 Claims 1, 2, 10, 13, 17 and 24-28 have been rejected under the judicially
23 created doctrine of obviousness-type double patenting, as being unpatentable over
24 claims 10 and 13 of U.S. Patent No. 6,671,481.

25 A terminal disclaimer in accordance with 37 C.F.R. §1.321(c) is submitted
contemporaneous with this Response in order to overcome the double patenting
rejection of claims 1, 2, 10, 13, 17 and 24-28 (as respectively amended). Thus, the

1 rejection of claims , 2, 10, 13, 17 and 24-28, as respectively amended, is believed
2 moot.

3
4 Summary

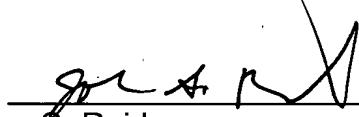
5 The Applicants believe that this response constitutes a full and complete
6 response to the Office Action. Therefore, the Applicants respectfully request
7 reconsideration of claims 1-2, 10, 13, 17 and 24-28, as respectively amended, as
8 well as consideration on the merits of new claims 29-38, in favor of time allowance.

9 The Examiner is respectfully requested to contact the below-signed
10 representative if the Examiner believes this will facilitate prosecution toward
11 allowance of the claims.

12
13 Respectfully submitted,

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17 Date: July 8, 2004

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